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7 *Marketing Group, Inc., Jeffrey Goldstein,*
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Hon. Fred Van Sickle

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15 *Marketing Group, Inc., Jeffrey Goldstein,*
16 *Kenneth Adamson and Phillip Huston*

17 **IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT RICHLAND**

18 James S. Gordon, Jr.,

) Case No.: CV-04-5125-FVS

19 Plaintiff,

20 v.

21 Impulse Marketing Group, Inc.,
22 Jeffrey Goldstein, Phillip Huston,
23 and Kenneth Adamson,

[PROPOSED] ORDER DISMISSING
FIRST AMENDED COMPLAINT
UNDER FED. R. CIV. P. 12(b)(1), (2)
& (6) OR, IN THE ALTERNATIVE
FOR A MORE DEFINITE
STATEMENT UNDER FED. R. CIV.
P. 12(e)

Defendants.

24 Impulse Marketing Group, Inc.,

25 Third-Party Plaintiff,

26 v.

27 Bonnie F. Gordon, Jamila Gordon,
28 James Gordon, III, and Jonathan
Gordon,

Third-Party Defendants.

THIS MATTER comes before the Court on the Motion to Dismiss the First Amended Complaint Under Fed. R. Civ. 12(b)(1), (2) and (6) or, in the Alternative, for

PROPOSED ORDER, DEFENDANT HUSTON'S MOTION
TO DISMISS OR, IN THE ALTERNATIVE, FOR A MORE
DEFINITE STATEMENT - 1
00082064;1

KLEIN, ZELMAN, ROTHERMEL & DICTHER, L.L.P.
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1 a More Definite Statement Under Fed. R. Civ. P. 12(e) filed by Defendant Phillip
2 Huston ("Huston"), the Court hereby finds as follows:

3 1. The Plaintiff failed to comply with this Court's order denying his request
4 to add new plaintiffs to the action.

5 2. The Plaintiff lacks standing to assert any causes of action on behalf of
6 unregistered d/b/a Gordonworks.com.

7 3. The Plaintiff, an individual, lacks standing to assert the matters
8 complained of in his First Cause of Action.

9 4.. The Plaintiff, an individual, is neither an "interactive computer service" as
10 defined in RCW § 19.190, *et seq.*, nor an "internet access service" as defined in 15
11 U.S.C. § 7701, *et seq.*, and therefore lacks standing as an interactive computer service or
12 internet access service to assert the matters complained of in his First and Second
Causes of Action.

13 5. After due deliberation, this Court has determined that it lacks jurisdiction
14 over the person of Phillip Huston.

15 6. After due deliberation, this Court has determined that the First Amended
16 Complaint fails to state a claim on which relief may be granted.

17 WHEREFORE, it is hereby ORDERED that:

- 18 a. The motion to dismiss is GRANTED.
19 b. The clerk will enter a judgment dismissing this action with prejudice and
20 awarding Defendant his costs.

21 DATED this _____ day of _____, 2007.

22
23 Hon. Fred Van Sickle
24 United States District Court Judge
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